IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.MC.No. 2630 of 2007()

ST.2060/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY

.....

PETITIONER: ACCUSED;

MUTHAMMEDALI, S/O.ABOOBACKER,
CHALAKKARA, THACHAMPOYIL(PO)
THAMARASSERY, KOZHIKODE.

BY ADV. SRI.SANTHARAM.P

RESPONDENTS: COMPLAINANT:

---

1. ABDUL MAJEED,
S/O.AHEMMADKUTTY HAJI,
PUTHEN HERUVIL , THACHAMPOYIL(PO),
THAMARASSERY, KOZHIKODE.

2. STATE OF KERALA, REP BY PUBLIC
PROSECUTR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

Crl.M.C. No.2630 Of 2007

= = = = = = = = = = = = = =

Dated this the 17th day of August, 2007

ORDER

Petitioner faces indictment in a prosecution for the offences punishable, under Section 138 of Negotiable Instrument Act. Investigation is complete. Cognizance has been taken and the case is registered. The petitioner did not appear before the learned Magistrate. The learned Magistrate has issued coercive processes against the petitioner. The case has been transferred to the list of long pending cases also.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate and cooperate for the early disposal of the case, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

5. The learned counsel for the petitioner submits that the petitioner is employed abroad and the learned Magistrate may hence be directed to dispose of the case expeditiously. It is for the petitioner to appear before the learned Magistrate and make that request. The learned Magistrate, needless to say, must consider such request and pass orders expeditiously.

(R.BASANT, JUDGE)

sj